

ASSEMBLY BILL

No. 294

Introduced by Assembly Member Holden

February 11, 2013

An act to amend Sections 53395.1, 53395.3, 53395.10, 53395.14, and 53397.6 of, and to add Section 53397.12 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 294, as introduced, Holden. Infrastructure financing districts: use of incremental property tax revenue.

(1) Existing law authorizes a legislative body, as defined, to create an infrastructure financing district, adopt an infrastructure financing plan, and issue bonds, to finance specified public facilities, upon voter approval. Existing law authorizes an infrastructure financing district to fund infrastructure projects through tax increment financing, pursuant to the infrastructure financing plan and agreement of affected taxing entities, as defined.

This bill would authorize an infrastructure financing district to utilize the Educational Revenue Augmentation Fund (ERAF) portion of incremental tax revenue. The bill would require an infrastructure financing district that proposes to utilize the ERAF portion of incremental tax revenue to include that intention in the financing plan, and prior to adopting a resolution authorizing the first debt issuance utilizing the ERAF share, obtain and submit an economic analysis to the California Infrastructure and Economic Development Bank for review and approval, as specified.

(2) Existing law authorizes the legislative body of an infrastructure financing district to issue bonds upon the approval, by a $\frac{2}{3}$ vote, of the

voters voting on the proposition and requires the issuance of the bonds to include, among other things, the date on which the bonds will mature.

This bill would require the issuance to specify that the date on which the bonds will mature may not occur prior to the receipt of at least the aggregate of \$100,000 in incremental property tax revenues by the district.

(3) Existing law authorizes an infrastructure financing district to finance only public capital facilities of communitywide significance, which provide significant benefits to an area larger than the area of the district, including, among others, highways, interchanges, ramps and bridges, arterial streets, parking facilities, transit facilities, facilities for the collection and treatment of water for urban uses, child care facilities, libraries, and facilities for the transfer and disposal of solid waste.

This bill would additionally authorize an infrastructure financing district to finance brownfield cleanup that promotes infill housing development and other related infill development consistent with regional and local plans.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 53395.1 of the Government Code is
- 2 amended to read:
- 3 53395.1. Unless the context otherwise requires, the definitions
- 4 contained in this article shall govern the construction of this
- 5 chapter.
- 6 (a) "Affected taxing entity" means any governmental taxing
- 7 agency which levied or had levied on its behalf a property tax on
- 8 all or a portion of the property located in the proposed district in
- 9 the fiscal year prior to the designation of the district, but not
- 10 including any county office of education, school district, or
- 11 community college district.
- 12 (b) "City" means a city, a county, or a city and county.
- 13 (c) "Debt" means any binding obligation to repay a sum of
- 14 money, including obligations in the form of bonds, certificates of
- 15 participation, long-term leases, loans from government agencies,
- 16 or loans from banks, other financial institutions, private businesses,
- 17 or individuals.

(d) “Designated official” means the city engineer or other appropriate official designated pursuant to Section 53395.13.

(e) (1) “District” means an infrastructure financing district.

(2) An infrastructure financing district is a “district” within the meaning of Section 1 of Article XIII A of the California Constitution.

(f) “ERAF” means the Educational Revenue Augmentation Fund.

(g) “ERAF share” means the county ERAF portion of incremental tax revenue.

~~(f)~~
(h) “Infrastructure financing district” means a legally constituted governmental entity established pursuant to this chapter for the sole purpose of financing public facilities.

~~(g)~~
(i) “Landowner” or “owner of land” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this chapter. A public agency is not a landowner or owner of land for purposes of this chapter, unless the public agency owns all of the land to be included within the proposed district.

~~(h)~~
(j) “Legislative body” means the city council or board of supervisors.

SEC. 2. Section 53395.3 of the Government Code is amended to read:

53395.3. (a) A district may finance (1) the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer which satisfies the requirements of subdivision (b), (2) may finance planning and design work which is directly related to the purchase, construction, expansion, or rehabilitation of that property and (3) the costs described in Sections 53395.5, and 53396.5. A district may only finance the purchase of facilities for which construction has been completed, as determined by the legislative body. The facilities need not be physically located within the boundaries of the district.

1 A district may not finance routine maintenance, repair work, or
2 the costs of ongoing operation or providing services of any kind.

3 (b) The district shall finance only public capital facilities of
4 communitywide significance, which provide significant benefits
5 to an area larger than the area of the district, including, but not
6 limited to, all of the following:

7 (1) Highways, interchanges, ramps and bridges, arterial streets,
8 parking facilities, and transit facilities.

9 (2) Sewage treatment and water reclamation plants and
10 interceptor pipes.

11 (3) Facilities for the collection and treatment of water for urban
12 uses.

13 (4) Flood control levees and dams, retention basins, and drainage
14 channels.

15 (5) Child care facilities.

16 (6) Libraries.

17 (7) Parks, recreational facilities, and open space.

18 (8) Facilities for the transfer and disposal of solid waste,
19 including transfer stations and vehicles.

20 (c) *Notwithstanding subdivisions (a) and (b), a district may*
21 *finance brownfield cleanup that promotes infill housing*
22 *development and other related infill development consistent with*
23 *regional and local plans.*

24 ~~(e)~~

25 (d) Any district which constructs dwelling units shall set aside
26 not less than 20 percent of those units to increase and improve the
27 community's supply of low- and moderate-income housing
28 available at an affordable housing cost, as defined by Section
29 50052.5 of the Health and Safety Code, to persons and families of
30 low- and moderate-income, as defined in Section 50093 of the
31 Health and Safety Code.

32 SEC. 3. Section 53395.10 of the Government Code is amended
33 to read:

34 53395.10. A legislative body of a city may designate one or
35 more proposed infrastructure financing districts pursuant to this
36 chapter. Proceedings for the establishment of a district shall be
37 instituted by the adoption of a resolution of intention to establish
38 the proposed district and shall do all of the following:

39 (a) State that an infrastructure financing district is proposed to
40 be established under the terms of this chapter and describe the

1 boundaries of the proposed district, which may be accomplished
2 by reference to a map on file in the office of the clerk of the city.

3 (b) State the type of public facilities proposed to be financed
4 by the district. The district may only finance public facilities
5 authorized by Section 53395.3.

6 (c) (1) State that incremental property tax revenue from the
7 city and some or all affected taxing entities within the district may
8 be used to finance these public facilities.

9 (2) *In the case of a district that proposes to utilize the ERAF*
10 *share, state that incremental property tax revenues from the county*
11 *ERAF within the district may be used to finance these public*
12 *facilities.*

13 (d) Fix a time and place for a public hearing on the proposal.

14 SEC. 4. Section 53395.14 of the Government Code is amended
15 to read:

16 53395.14. After receipt of a copy of the resolution of intention
17 to establish a district, the official designated pursuant to Section
18 53395.13 shall prepare a proposed infrastructure financing plan.
19 The infrastructure financing plan shall be consistent with the
20 general plan of the city within which the district is located and
21 shall include all of the following:

22 (a) A map and legal description of the proposed district, which
23 may include all or a portion of the district designated by the
24 legislative body in its resolution of intention.

25 (b) A description of the public facilities required to serve the
26 development proposed in the area of the district including those
27 to be provided by the private sector, those to be provided by
28 governmental entities without assistance under this chapter, those
29 public improvements and facilities to be financed with assistance
30 from the proposed district, and those to be provided jointly. The
31 description shall include the proposed location, timing, and costs
32 of the public improvements and facilities.

33 (c) A finding that the public facilities are of communitywide
34 significance and provide significant benefits to an area larger than
35 the area of the district.

36 (d) A financing section, which shall contain all of the following
37 information:

38 (1) (A) A specification of the maximum portion of the
39 incremental tax revenue of the city and of each affected taxing
40 entity proposed to be committed to the district for each year during

1 which the district will receive incremental tax revenue. The portion
2 need not be the same for all affected taxing entities. The portion
3 may change over time.

4 (B) *If the district proposes to utilize the ERAF share, a statement*
5 *of the maximum amount of tax increment from the ERAF share*
6 *that the district will receive during the period of the district.*

7 (2) A projection of the amount of tax revenues expected to be
8 received by the district in each year during which the district will
9 receive tax revenues, including an estimate of the amount of tax
10 revenues attributable to each affected taxing entity for each year.

11 (3) A plan for financing the public facilities to be assisted by
12 the district, including a detailed description of any intention to
13 incur debt.

14 (4) A limit on the total number of dollars of taxes which may
15 be allocated to the district pursuant to the plan.

16 (5) A date on which the district will cease to exist, by which
17 time all tax allocation to the district will end. The date shall not
18 be more than 30 years from the date on which the ordinance
19 forming the district is adopted pursuant to Section 53395.23.

20 (6) An analysis of the costs to the city of providing facilities
21 and services to the area of the district while the area is being
22 developed and after the area is developed. The plan shall also
23 include an analysis of the tax, fee, charge, and other revenues
24 expected to be received by the city as a result of expected
25 development in the area of the district.

26 (7) An analysis of the projected fiscal impact of the district and
27 the associated development upon each affected taxing entity.

28 (8) A plan for financing any potential costs that may be incurred
29 by reimbursing a developer of a project that is both located entirely
30 within the boundaries of that district and qualifies for the Transit
31 Priority Project Program, pursuant to Section 65470, including
32 any permit and affordable housing expenses related to the project.

33 (e) If any dwelling units occupied by persons or families of low
34 or moderate income are proposed to be removed or destroyed in
35 the course of private development or public works construction
36 within the area of the district, a plan providing for replacement of
37 those units and relocation of those persons or families consistent
38 with the requirements of Section 53395.5.

39 SEC. 5. Section 53397.6 of the Government Code is amended
40 to read:

1 53397.6. (a) The bonds may be issued if two-thirds of the
2 voters voting on the proposition vote in favor of issuing the bonds.

3 (b) If the voters approve the issuance of the bonds as provided
4 by subdivision (a), the legislative body shall proceed with the
5 issuance of the bonds by adopting a resolution which shall provide
6 for all of the following:

7 (1) The issuance of the bonds in one or more series.

8 (2) The principal amount of the bonds, which shall be consistent
9 with the amount specified in subdivision (b) of Section 53397.2.

10 (3) The date the bonds will bear.

11 (4) The date of maturity of the bonds, *which shall not occur*
12 *prior to the receipt of at least the aggregate of one hundred*
13 *thousand dollars (\$100,000) in incremental property tax revenues*
14 *by the district.*

15 (5) The denomination of the bonds.

16 (6) The form of the bonds.

17 (7) The manner of execution of the bonds.

18 (8) The medium of payment in which the bonds are payable.

19 (9) The place or manner of payment and any requirements for
20 registration of the bonds.

21 (10) The terms of call or redemption, with or without premium.

22 SEC. 6. Section 53397.12 is added to the Government Code,
23 to read:

24 53397.12. (a) (1) Before adopting the resolution required by
25 subdivision (b) of Section 53397.6 authorizing the issuance of
26 bonds utilizing the ERAF share, the legislative body shall obtain
27 and submit an economic analysis to the California Infrastructure
28 and Economic Development Bank for review and approval. The
29 Legislative body shall include the adopted infrastructure financing
30 plan with the economic analysis.

31 (2) The legislative body shall obtain the economic analysis from
32 one of the following entities:

33 (A) The University of California.

34 (B) The California State University.

35 (C) A group of economists of comparable stature and
36 qualifications to those from the University of California or the
37 California State University.

38 (b) The bank may circulate the economic analysis to other state
39 agencies, including, but not limited to, the Department of Finance,
40 the Department of Housing and Community Development, and

1 the Office of Planning and Research, and solicit their comments
2 and recommendations. After considering the comments and
3 recommendations of other state agencies, if any, the bank shall
4 take one of the following actions:

5 (1) Approve the economic analysis and infrastructure financing
6 plan if the bank makes the finding required pursuant to subdivision
7 (d).

8 (2) Return the economic analysis and infrastructure financing
9 plan to the legislative body with specific recommendations for
10 changes that would allow the bank to approve the fiscal analysis.

11 (3) Require an additional economic analysis to affirm the
12 determinations made by the first economic analysis.

13 (c) The bank shall have 100 days from the receipt of the
14 economic analysis to act pursuant to this subdivision. If the bank
15 does not act within 100 days, the fiscal analysis shall be deemed
16 approved.

17 (d) For bank approval, the economic analysis shall demonstrate
18 to the bank's reasonable satisfaction a reasonable probability that
19 the development to be financed would result in an amount of
20 revenue to the General Fund with a net present value that is greater
21 than the net present value of the amount of property tax increment
22 revenues that would be diverted from ERAF over the term of the
23 district, taking into consideration all pertinent data. In reviewing
24 the economic analysis, the bank shall consider only those General
25 Fund revenues that would occur because of economic activity
26 proposed to occur as a result of implementation of the infrastructure
27 financing plan.

28 (e) The legislative body shall reimburse the bank for the
29 reasonable cost of the review and approval of the fiscal analysis.